

REMARKS

Applicants file this Preliminary Amendment along with a Request for Continued Examination (RCE) application. Prior to examination of the RCE, please enter the amendments and conduct an examination based on the claim set listed above. Applicants submit that pending claims 40, 42-53, 55-79 and 81-86 are in condition for allowance, and notice to that effect is respectfully requested.

I. INTERVIEW SUMMARY

Applicants wish to thank Examiner Vetter for the telephone interview conducted on May 8, 2008. The undersigned attorney and the Examiner generally discussed independent claims 40 and 82. Further, the undersigned attorney and the Examiner discussed potential differences between applicants' invention and the prior art references cited in the Final Office Action, particularly U.S. Pat. Pub. No. 2003/0009401 ("Ellis").

The Examiner suggested that the applicants amend the claims to help distinguish over Ellis, and noted that one possible area for distinction revolved around the term "at least one cost," or otherwise explaining how applicants' costs are calculated. While this was only one possible avenue for distinction, no specific amendments were discussed and no agreements were reached during the phone call.

The undersigned attorney and the Examiner also discussed the 35 USC § 112 rejections to claims 57, 59, 62, 66, 70 and 71, each of which recite a particular type of "Distribution." The Examiner suggested that by removing the specific terms, e.g., "Slicing Distribution" and "Tiered Distribution," from the claims and merely providing a textual description, the 35 USC § 112 rejections would likely be overcome.

Finally, during the phone call, the Examiner recommended amending some claims to incorporate the phrase "operative to" where appropriate.

II. CLAIM AMENDMENTS

A. The 35 USC § 112 Rejections Should be Withdrawn

The Final Office Action rejects claims 57, 59, 62, 66, 70 and 71 for supposedly being “unclear what approach is being claimed.” (see Final Office Action at page 4). In accordance with Examiner Vetter’s telephone suggestion to overcome these rejections, applicants have removed the terminology reciting a particular type of “Distribution,” and have instead provided a textual description only. Accordingly, applicants respectfully request that the Examiner withdraw the 35 USC § 112 rejections to claims 57, 59, 62, 66, 70 and 71.

With regard to the 35 USC § 112 rejections to claims 82-85 in the Final Office Action, the Examiner alleges that there is insufficient antecedent basis for the limitation “the time intervals” in line 9 of claim 82. However, applicants respectfully submit that the present amendments to claim 82 (shown above) obviate the Examiner’s previous rejection.

Accordingly, applicants respectfully request that the Examiner withdraw each of the 35 USC § 112 rejections noted in the Final Office Action.

B. Support for Amendments to Independent Claims 40, 81 and 82

Solely to expedite prosecution of the present application, independent claims 40 and 82 have been amended to recite, *inter alia*, that “the rate data comprises at least one of one tariff, a plurality of tariffs and real time pricing, wherein the rate data comprises a plurality of charges, wherein the processing module is operative to apply a first charge to at least a first logging interval to compute a first cost associated with the first logging interval; wherein the processing module is operative to apply a second charge to at least a second logging interval to compute a second cost associated with the second logging interval; and wherein the output module is operative to provide an output including at least the first and second costs.”

Independent claim 81 has been amended in a similar manner as claims 40 and 82, but recites a “means for computing” in lieu of a processing module, and recites a “means for outputting the plurality of costs” in lieu of an output module.

Support for applicants’ amendments to claims 40, 81 and 82 may be found throughout the specification. Without limitation, support may be found at paragraphs 20-30, 32-34, 40-42, 58,

62 and 68, and in the various Figures. Additional support may be found elsewhere in the specification.

C. The Amendments to Claims 40, 81 and 82 are Patentable Over the Prior Art

Applicants point out that none of the references cited in the Final Office Action dated February 13, 2008 either anticipate or render obvious amended independent claims 40, 81 and 82.

Independent claims 40, 81 and 82 were rejected as anticipated by Ellis. As amended, independent claims 40 and 82 require, *inter alia*, “the rate data comprises at least one of one tariff, a plurality of tariffs and real time pricing, wherein the rate data comprises a plurality of charges, wherein the processing module is operative to apply a first charge to at least a first logging interval to compute a first cost associated with the first logging interval; wherein the processing module is operative to apply a second charge to at least a second logging interval to compute a second cost associated with the second logging interval; and wherein the output module is operative to provide an output including at least the first and second costs.” Claim 81 is similar to claims 40 and 82, but recites a “means for computing” in lieu of a processing module, and recites a “means for outputting the plurality of costs” in lieu of an output module.

Applicants respectfully submit that Ellis neither teaches nor suggests a rate engine or a system having the limitations described above. The Examiner had generally cited to paragraphs 323-325, 328 and 330 of Ellis in rejecting applicants’ previously pending claims. However, none of these paragraphs, or other paragraphs in the Ellis specification, teach or suggest the claims limitations recited by amended claims 40, 81 and 82.

D. Dependent Claims

For at least the reasons set forth above, applicants respectfully submit that independent claims 40, 81 and 82 are in condition for allowance. Since independent claim 40 is allowable, dependent claims 42-53 and 55-79 are also in condition for allowance for at least the reasons set forth above. Since independent claim 82 is allowable, dependent claims 83-86 are also in condition for allowance for at least the reasons set forth above.

CONCLUSION

Each of the matters in the Final Office Action dated February 13, 2008 has been addressed and no new matter has been added. Applicants submit that all of pending claims 40, 42-53, 55-79 and 81-86 are in condition for allowance and notice to this effect is respectfully requested. The Examiner is invited to contact the undersigned attorney if such communication would expedite the prosecution of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Doug Oguss', is written over a horizontal line.

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